

FREDERICK COUNTY PLANNING COMMISSION  
MEETING OF APRIL 8, 2009  
9:30 a.m.

Members Present: Audrey Wolfe, Chairperson; Catherine Forrence, Vice-Chair; Robert White, Secretary; Kai Hagen, Commissioner Liaison; Joe Brown, Richard Floyd, and John McClurkin.

Staff Present: Gary Hessong, Director, DPDR; Stephen O'Philips, Principal Planner; Tolson DeSa, Planner; Kathy Mitchell, Assistant County Attorney; Eric Soter, Director, Planning and Zoning; Ron Burns, Traffic Engineer; Betsy Smith, Director of DPDR Engineering; Lori Barlet-Chapman Legal Associate III.

1. **MINUTES:**

There was a general consensus to review the tapes from the March 11, 2009 FcPc meeting in regard to agenda item #9 -- Countywide Comprehensive Plan Update -- Resource Conservation Mapping, before approving the minutes.

2. **PLANNING COMMISSION COMMENTS:**

Mr. White spoke of a motion that came to a 2-2 tie this past week in regard to the disposition on the Frederick County Growth Line Map. In regard to the property -- the Crum property, to the west of US 15 and to the north of the Homewood property, Mr. White moved that this property be removed from the growth area that FcPc will be presenting as part of the growth area map. 2<sup>nd</sup> Ms. Forrence.

**Yea 5    Nay 2 (Brown & Wolfe Opposed)**

3. **AGENCY COMMENTS/AGENDA BRIEFING:**

N/A

4. **<sup>NS</sup>CONSENT AGENDA**

a. APFO Letter of Understanding (LOU) for Carroll Manor Fire Company Requesting approval of signed LOU for 50 residential units (single-family and multi-family mixed) on 10.2 acres approved at the November 2008 FcPc Meeting. Located at the Terminus of Washington & Adams Streets in Adamstown. Zoned: Planned Unit Development, (PUD), Adamstown Planning Region. Tax Map 77/Parcel 106. File # S1153, AP # 8297, Stephen O'Philips.

**Decision:** Mr. Brown made a motion for approval and the Consent Agenda item was approved for signature. 2<sup>nd</sup> Mr. White

Yea 6 Nay 1 (Forrence Abstained)

5. **MXD PHASE II (EXECUTION) PLANS**

- a. Executive Court (North) at Westview South MXD – Requesting approval to re-subdivide, creating five lots; re-dedicate public street; and develop five lots with one office building per lot. Situated on 22.78 acres on the north side of Executive Way (Extended) located between MD 85 and New Design Road. Zoned: Mixed Use Development (MXZD) Adamstown Planning Region. Tax Map 86 / Parcel 3. File # S-905 & SP 98-36, Site # 8680 (FRO & APFO are approved), Stephen O'Philips.

*All parties and Staff wishing to give testimony in this matter were sworn in.*

**Staff Findings/Recommendations:**

**Findings:**

The Applicant proposes re-subdivision of five lots, re-dedication of a public street, and site plan approval of five lots for office building development. As part of this request, a loading space modification is also requested:

- ☐ Phase II (Execution) Plan (AP # 8680)
- ☐ Loading Space Modifications (AP # 8680)

The Staff finds that the:

- 1) Zoning Code is silent on the length of time for which a Phase II (Execution) Plan can be approved. However, a portion of the code (Section 1-19-324 (H) (2) gives guidance as to the intent:

*Phase II: Execution Phase. This guides the project through the customary subdivision and site plan process.*

Therefore, in the absence of clear language, the Staff would infer that the Preliminary Plat (subdivision) portion of this Phase II Execution Plan can be given approval for up to a five-year period [in accordance with Section 1-16-71 (Q) of the Subdivision Regulations], but not longer than the APFO expiration date, which is February 12, 2013; and that the Site Plan portion of this Phase II Execution Plan can be given approval for a two-year period in accordance with Section 1-19-3.300 (B) of the Zoning Ordinance.

- 2) The APFO Letter of Understanding (LOU) approved in 2003 and signed in 2005 governs the terms of development and the improvements that must be in place before development can proceed. The Applicant has demonstrated to

Traffic Engineering Staff that the development of these five office buildings do not create peak-hour trips greater than the assumptions made with the 2003 APFO analysis and signed 2005 LOU.

- 3) The Forest Resource Ordinance requirements have been fully met with the recordation and planting of forest easements in the Ballenger Creek 100-year floodplain.
- 4) The goals of the MXD as expressed in § 1-19-10.500 (A) (2) of the Zoning Ordinance have largely been met with amenities such as pedestrian sidewalks and bicycle paths and rack accommodations; seating and table areas in the retail area; and abundant landscaping and connection to the Ballenger Creek Trail System in the surrounding forest buffers. However, additional fine-tuning of the parking lot and shared parking arrangement for the adjoining historic farmstead, Lot # 300, needs to be made in order to achieve the land efficiency goal.
- 5) Proposed building height for Lot 303 that exceeds 60' (66' - 8") is mitigated with large setbacks and substantive street tree and shrub plantings.
- 6) The entrance-spacing for all three proposed entrances matches the previously approved entrance in the 2003 Preliminary Plat approval.
- 7) The justification statements provided by the Applicant [under § 1-19-6.210 (D)] for loading-space modification have adequately explained why lesser numbers of loading spaces are needed to adequately provide for loading needs for each building.
- 8) Resolutions of parking lot design/engineering, lighting and signage are needed, in addition to other minor drafting and design clarifications and modifications requested by Agencies.
- 9) Based upon the discussions in the report, the application meets and/or will meet all applicable Zoning, Subdivision, APFO and FRO requirements once all Staff and Agency comments and conditions are met or mitigated.

**Recommendation:**

Should the Planning Commission approve the Phase II (Execution) Plan for this Mixed Use Development, an (AP# 8680), the motion for approval should include the following items:

- ☐ Loading Space Modifications (AP # 8680);
- ☐ Approval of the Site Plan portion of the application for 2 years; and
- ☐ Approval of the Preliminary Plan portion of the application for 5 years, or to the date of APFO expiration, whichever comes first.

And, the Staff would recommend that the following items be added as conditions of approval:

- 1) Comply with Stream Buffer grading limitations by converting the perpendicular parking to parallel parking in the area Lot # 303 and # 304.
- 2) Provide a shared parking agreement with Lot #300 so that the historic farmstead lot does not have to be over-designed with parking lot to serve special functions.

- 3) Resolved the following parking lot design/engineering issues:
- a. Turning radii notations need to be added to corners identified for emergency vehicle routes.
  - b. Parking areas identified as Small Car Parking need to be identified with reasonable signage, to be determined by Traffic Engineer.
  - c. The exit radii between Lots # 304 and 305 needs to be tightened up to provide better traffic control, or providing turning radii analysis for review.
  - d. There is an excessive pavement area around the service courts for lots # 303 and 304 that needs to be reduced, or providing turning radii analysis for review.
  - e. There is an excessive and inefficient pavement area in the back of the parking lot for Lot # 303 that needs to be converted to green space.
  - f. Entrance radius between Lots # 301 and 302 is too large and needs to be tightened up, or providing turning radii analysis for review.
- 4) Resolve lighting, landscaping and signage issues.
- 5) Comply with Agency comments as this project moves through the development process, including but not limited to:
- a. SWM and easement recordation resolutions.
  - b. Adding clarifying notes regarding fire hydrant markers and sprinkler systems.
  - c. Changes in utility notes and drafting, and minor changes in utility layout.
  - d. Providing pre-treatment of SWM from parking lots at Improvement Plan review.

**Applicant Presentation:**

Mr. Rand Weinberg, Esquire, Mr. Carl Morris and Mr. Chris Smariga, representing the applicant, presented the proposal.

**Public Comment:**

Mr. Mark Friis, Rodgers Consulting spoke of the grading for this project and how it affects his client Old Chapel.

**Rebuttal:**

Mr. Weinberg spoke in regard to Mr. Friis comments.

**Decision:** Mr. White made a motion of conditional approval in accordance with Staff's Findings, Recommendations, and Conditions with the exception of Condition number one being removed and Condition number 2 be amended as follows:

- 1) Provide a note on the Plan indicating that: *"The Applicant will contact and work with the owner of Lot 300 toward a goal of allowing off peak, non-conflicting parking on a portion of Lot 301, and will advise Staff if an agreement is reached."*
- 2) Resolve the following parking lot design/engineering issues:
  - g. Turning radii notations need to be added to corners identified for emergency

- vehicle routes.
- h. Parking areas identified as Small Car Parking need to be identified with reasonable signage (above-ground signs), to be determined by Traffic Engineer.
- i. The exit radii between Lots # 304 and 305 needs to be tightened up to provide better traffic control, or providing turning radii analysis for review.
- j. There is an excessive pavement area around the service courts for lots # 303 and 304 that needs to be reduced, or providing turning radii analysis for review.
- k. There is an excessive and inefficient pavement area in the back of the parking lot for Lot # 303 that needs to be converted to green space.
- l. Entrance radius between Lots # 301 and 302 is too large and needs to be tightened up, or providing turning radii analysis for review.
- 3) Resolve lighting, landscaping and signage issues.
- 4) Comply with Agency comments as this project moves through the development process, including but not limited to:
  - e. SWM and easement recordation resolutions.
  - f. Adding clarifying notes regarding fire hydrant markers and sprinkler systems.
  - g. Changes in utility notes and drafting, and minor changes in utility layout.
  - h. Providing pre-treatment of SWM from parking lots at Improvement Plan review. 2<sup>nd</sup> Mr. Floyd

**Yea 5 Nay 2 (Brown & Forrence Opposed)**

## **6. SITE PLANS**

- a. Stanford Industrial Park, Lot 11 - The applicant is requesting re-approval for a 29,888 square foot contractor's office and storage building on 4.31 acres. This site plan was previously approved on December 13, 2006 and has expired on December 13, 2008. The applicant resubmitted the previously approved 29,888 square foot proposal with all of the previous conditions addressed. Located at the terminus of Cornell Place, located off of Winchester Boulevard in the Stanford Industrial Park. Zoned: Limited Industrial (LI); Contractor's Office and Storage Use, Adamstown Planning Region. Tax Map 94 / Parcel 96 & 89. File # SP-00-12, Site # 9074, Tolson DeSa.

*All parties and Staff wishing to give testimony in this matter were sworn in.*

### **Staff Findings/Recommendations:**

### **Findings:**

Based on the discussion in this report and with the conditions listed below, Staff finds that the application meets and/or will meet all applicable Zoning, APFO and FRO requirements once the conditions of approval have been met.

Staff notes that if the Planning Commission conditionally approves the site plan, the site plan is valid for a period of two (2) years from the date of Planning Commission approval. As previously stated, APF was previously tested and approved for up to 500,000 square feet of finished floor area for Section III. Therefore, this site plan proposal is vested and passes APF.

Staff has no objection to conditional approval of the site plan.

**Recommendations:**

Should the Planning Commission conditionally approve this Site Plan SP # 00-12 (AP# 9074, APFO 9076 & FRO 9075) for the proposed Stanford Industrial Park Lot 11, the motion for approval should include the following item:

1. Site plan approval for a period of two years from today's date.

Staff recommends that the following items be added as conditions of approval:

1. Address all agency comments as the plan proceeds through completion.
2. Approval of the requested loading space modification to allow nine (9) 12' x 24' loading spaces.

**Applicant Presentation:**

Mr. Steve Loss of Loss-Stair, Inc., representing the applicant presented the proposal.

**Public Comment:**

N/A

**Rebuttal:**

N/A

**Decision:** Mr. Brown made a motion for up to a 60-day continuance for issues to be resolved – drainage, other parking considerations and locations, and also the possibility of a proffer. Members also requested the presence of the Applicant to answer further questions. 2<sup>nd</sup> Mr. White.

**Yea 6 Nay 0 (Hagen Absent)**

- a. Mullinix Agro Industrial, Lot 4 - Continued from the December 2008 Agenda. Requesting approval for two principal permitted uses (#1:

Contractors Office and Storage; and # 2: Contractors, Equipment and Material Storage Yard) on 5.4 acres on the north side of Agro Drive. Zoned: General Industrial (GI) Adamstown Planning Region. Tax Map 94 / Parcel 85. File # SP 79-18, Site # 8686, APFO # 8687 & FRO # 8689, Stephen O'Philips

*All parties and Staff wishing to give testimony in this matter were sworn in.*

**Mr. O'Philips stated that the applicant has submitted a request in writing to continue this project for up to 180 days to work with MDE and the current tenant to prepare a revised plan. Staff supports the 180 day continuance.**

**Decision:** Mr. Brown made a motion for up to a 180 day continuance per the applicant's request. 2<sup>nd</sup> Mr. White

**Yea 6 Nay 0 (Hagen Abstained)**

**7. MISCELLANEOUS REQUESTS**

(This item was moved up on the agenda as to hear the two Damascus agenda items together.)

a.

Villages of Urbana, Sec. M-15 Asphalt Path Removal – Requesting approval of asphalt path in Home Owners Open Space Parcel. Located at the terminus of Broadstone street in Section M-15 in the Villages of Urbana PUD, Zoned: PUD. Urbana Planning Region. Tax Map 96 / Parcel 676. File # S-1065 AP # 9246, Stephen O'Philips.

*All parties and Staff wishing to give testimony in this matter were sworn in.*

**Staff Findings/Recommendations:**

**Findings:**

The Applicant proposes to modify the 2003-approved Preliminary Plat by removing the requirement for the developer to construct the 5' asphalt path next to their lot. The Applicant has provided polling results showing substantial agreement with removal of the asphalt path. The HOA has also submitted a letter agreeing to the action with two conditions.

**Recommendations:**

Should the Planning Commission approve this application (AP # 9246); the Staff recommends that the following items be added as conditions to the approval:

- 1) Maintain the 10'-wide area by keeping it mowed, weeded and free of debris at all times.
- 2) Maintain the area free of obstructions; including but not limited to, landscaping or any other items that would prevent access to the area at all times.

**Applicant Presentation:**

Mr. Bruce Smith the applicant presented the proposal.

**Public Comment:**

N/A

**Rebuttal:**

N/A

**Decision:** Ms. Forrence made a motion for approval in accordance with Staff's Findings, Recommendations, and Conditions. 2<sup>nd</sup> Mr. Brown.

**Yea 7    Nay 0**

Break for lunch at 12:30

1. Damascus Road Community Church – Requesting approval for a 22,520 sq.ft. Church plus parking field on 36 acres, located on the North-side Old National Pike near Bartholows Road intersection. Zoned: Agricultural (AG), New Market Planning Region, Tax Map 189 / Parcels 29 & 69. File # SP-95-40, Site # 6578, APFO # 6579 & FRO # 6580, Stephen O' Philips.

*All parties and Staff wishing to give testimony in this matter were sworn in.*

**Staff Findings/Recommendations:**

**Findings:**

The Applicant proposes to build a 22,400 sq. ft. church with associated parking. The Applicant is requesting approvals for the following applications:

- ☐ Site Plan (AP # 6578)
- ☐ APFO (AP # 6579)
- ☐ FRO (AP # 8810)
- ☐ Loading Space Modification (AP # 6578)

The Staff finds that:

- 1) Site Plan approval can only be given for a two-year period from the date of FcPc approval.

**\* PLEASE NOTE BOTH AUDIO AND VIDEO TAPES ARE AVAILABLE    8  
UPON REQUEST.**



- 2) Signature of the Site plan is dependent upon Final Plat recordation.
- 3) Final Plat recordation (and signature of this Site plan) is dependent upon the completion of the forest plans and associated legal documents.
- 4) The APFO approval can be granted for as long as the site plan remains valid, but for no more than three (3) years, based on the Applicant's DOL that proffers pro rata contribution to two escrow accounts and safety improvements to the Bartholows and Old National Pike intersection.
- 5) Additional, minor drafting additions and corrections (lighting, signage and HC notes) are needed to bring this application in full compliance with the various Code requirements.
- 6) Based upon the discussion in the report, the Staff finds that the site plan application meets and/or will meet all applicable Zoning, Subdivision, APFO and FRO requirements once all Staff and Agency comments and conditions are met or mitigated. With certain conditions of approval added, the Staff offers no objection to approval.

**Recommendations:**

Should the FcPc choose to approve this site- plan application (AP # 6578) for the building of a 22,400 sq. ft. church and associated parking fields, the associated requests should also be part of the motion:

- ☐ APFO (AP # 6579)
- ☐ FRO (AP # 8810)
- ☐ Loading Space Modification (AP # 6578)

Then Staff would recommend adding the following conditions to the approval:

Applicant shall:

- 1) Record the Final Plat for this property prior to Site Plan signature. The recordation of the Final Plat will automatically require full forest plan and associated legal document completion.)
- 2) Comply with Agency comments as this project moves through the development process, addressing minor drafting corrections noted by Agencies, including, but not limited to:
  - a. Health department comments;
  - b. Lighting;
  - c. Signage; and
  - d. Handicapped Accessibility notes and details.

**Applicant Presentation:**

Mr. Lee Miller, Mr. Joe Calloggero, and Mr. Mark Schaffer, representing the applicant, presented the proposal. Mr. Ron Burns, Traffic Engineer, DPDR, spoke of the traffic and safety issues. Mr. Greg Jones of DPW also spoke in regard to the project.

**Public Comment:**

Mr. Gary Perry resident near Bartholows Road is opposed to the intersection at Bartholows Road and Route 144.

Ms. Janet Ingram member of Damascus Community Church spoke in regard to the project.

**Rebuttal:**

Mr. Mark Schaeffer spoke about the history of this project

**Decision:** Mr. White made a motion for approval in accordance with Staff's Findings, Recommendations, and Conditions. 2<sup>nd</sup> Mr. Brown.

**Yea 6 Nay 1 (Forrence Opposed)**

**7. MISCELLANEOUS REQUESTS:**

- b. Damascus Road Community Church Entrance Modification – Requesting to modify Entrance Location previously approved by the FcPc in November 2007. Located on the North-side Old National Pike 560 east of Bartholows Road intersection. Zoned: Agricultural (AG), New Market Planning Region, Tax Map 189 / Parcels 29 & 69. File # SP-95-40, Site # 6578, Stephen O'Philips

*All parties and Staff wishing to give testimony in this matter were sworn in.*

**Staff Findings/Recommendations:**

**Findings:**

The Staff finds that the combined entrance for Lots 1-3 and the church remainder, Lot 4 offer the most optimum location for safe sight distance, entrance spacing design, and removal from the traffic concerns at the Bartholows Road intersection.

**Recommendations:**

Staff recommends approval of the common entrance shift 60' to the west.

**Applicant Presentation:**

N/A

**Public Comment:**

N/A

**Rebuttal:**

N/A

**Decision:** Mr. White made a motion for approval in accordance with Staff's Findings and Recommendation. 2<sup>nd</sup> Mr. Brown.

**Yea 6    Nay 1 (Forrence Abstained)**

Meeting adjourned at 3:09 p.m.

Respectfully Submitted,

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Audrey Wolfe, Chairperson

*[Handwritten signature]* Secretary  
*Chair not present*

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